

PRESIDENT: Senator Beutler, for closing.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, you have heard the arguments on both sides now. I don't really care to reiterate them in detail but simply to tell you briefly what the committee was thinking. The United States Constitution provides that the right to counsel applies to those situations where imprisonment is a possibility. The Supreme Court of the United States has been very liberal as you know in expanding the rights of criminal defendants and they, with regard to the right to counsel, they have now expanded it to include all misdemeanor cases except those where no imprisonment is possible. So it seemed to us that following that guideline, that it made sense to, in this state, say that the right to discovery should pertain in those same situations where they have a right to counsel. If you want to go beyond that and say that the right to discovery shall pertain where they don't have the right to counsel, then it is almost like having the horse before the cart. You are saying they don't have a right to counsel but they have a right to discovery which is, I suppose, fine if they are well enough off to have a lawyer. Senator Hoagland's point and Senator Fowler's point are well taken but it seemed to the committee that some compromise is necessary between the rights of defendants and the burdens that you are putting on the judicial system. If you allow discovery in all the most minor cases, traffic cases, the Class IV and Class V felonies or misdemeanors that are not covered by the committee compromise but which would be covered, if you defeated the committee amendment, involve literally hundreds of offenses and the county attorneys were before the committee saying that we shouldn't expand the right at all to misdemeanor cases because it is burdensome. And the committee said, well, it seemed to us that we should expand it to the extent that the United States Supreme Court has said that the right to counsel pertains to these people and so that is the balancing act we are trying to do, the rights of the defendant versus the burden on the court system and on the justice system. So I hope that you will be agreeable to the committee compromise. Thank you.

PRESIDENT: The question is on the adoption of the committee amendments. All those in favor vote aye, opposed vote no. The question is on the adoption of the committee amendments to LB 110. Have you all voted? If you desire to vote please record your vote on the committee amendments motion to adopt the committee amendments. Have you all voted? The Clerk will record the vote.